

Burns Harbor Advisory Plan Commission

Minutes of Monday, August 5, 2024

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in a regular session on Monday, August 5, 2024, at the Burns Harbor Town Hall. The meeting was called to order by Advisory Plan Commission President, Jeremy McHargue at 6:00 pm.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

Jeremy McHargue	Present
Bernie Poparad	Present
Roseann Bozak.....	Present via Zoom
Travis Dunlap	Present
Gordon McCormick	Present
Michell Watkins.....	Present
Aaron Adcock.....	Present

Additional Officials Present

Attorney- Clay Patton, Secretary- Jill Sherrill, and Building Commissioner- Joe Lawson

Also Present

Global Engineering- Shem Khalil, Jeff Altman, and Jeanette Hicks, Attorney- Todd Leeth, Consultant, and Karnerblue Era-Tina Rongers, and Provident Realty Advisors- Nick Farris, Jorge Gonzalez, and Denitza Arguirova and residents of the Town of Burns Harbor.

Minutes

Bozak made a motion to approve the minutes of July 8, 2024. Poparad seconded the motion. Poparad- Aye, Bozak- Aye, Adcock- Aye, Dunlap- Aye, McCormick- Abstain, Watkins- Abstain, McHargue- Aye. Motion passed.

Communication, Bills, Expenditures

Town Code Updates

Nothing to report.

Report of Officers, Committee, Staff

McHargue stated I'd like to welcome Michelle Watkins to her first meeting, so welcome. In addition, we still currently do not have a Vice President, so I think we need to address that. Poparad made a motion for Aaron Adcock to take the vice president's seat. Dunlap seconded the motion. Dunlap- Aye, Watkins- Aye, McCormick- Aye, Adcock- Aye, Poparad- Aye, Bozak- Aye, McHargue- Aye. Motion passed.

McHargue stated the next thing is the September meeting, our meeting would be scheduled for September 2nd, but since that is a holiday, it will be moved to Monday, September 9, 2024. Just in case there are any continuations or anything else I wanted everyone to be clear on when that meeting is. Are we all in agreement for September 9th at 6:00 P.M.? All board members agreed.

Watkins made a motion to move to recess and reconvene in 10 minutes at the Burns Harbor Fire Department meeting room. Bozak seconded the motion. Dunlap- Aye, Watkins- Aye, McCormick- Aye, Adcock- Aye, Poparad- Aye, Bozak- Aye, McHargue- Aye. Motion passed.

McHargue stated I would like to say we had to begin the meeting here at Town Hall regardless because this is the advertised place. We searched out trying to find a different venue, and the problem we were going to have was that we weren't going to be able to require the legal obligations for this meeting. So, everybody who said that the Plan Commission board couldn't plan a meeting, know that we took every step we could. The Burns Harbor Fire Department can seat 53 people currently as it is set up, which I think will be a lot more comfortable for those who are here than the current arrangement. So, we had to start the meeting here, but then what we are going to do is take a 10-minute intermission and we will start the Public Hearing at the Burns Harbor Fire Department. We will be able to provide more room for everyone that is here. I don't know that it is completely adequate, but it's the best thing that I have. Just so everyone is clear, the meeting room at the Burns Harbor Fire Department is on the Northeast corner. This trail will lead you right to it. There is a door on the outside and if you give the board 5-10 minutes to get everything set up again.

Recess was taken at 6:06 P.M.

The meeting was resumed at 6:21 P.M.

McHargue stated we are going to start the Public Hearing for the first one very shortly, but I wanted to address a few things. First, and this is from our Town Code. This is regarding when you have your opportunity to speak.

Persons addressing the Commission: The person who addresses the Commission shall do so in an orderly manner and shall not make personal, slanderous, or profane remarks to any member of the Commission, staff, or the general public. Any person who makes such remarks, or who utters loud threatening, personal, or abusive language, or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of the meeting may be subject to being barred from further participation in the meeting. Individuals remonstrating are asked to keep their comments focused on the application and to avoid repeating comments made by other remonstrators.

Members of the Audience: No person in the audience shall engage in disorderly or boisterous conduct, including the uttering of loud, threatening, or abusive language, or any other act which threatens to disrupt the orderly conduct of the meeting. During a public hearing, all members of the audience who wish to speak will be given an opportunity to speak.

Enforcement of Decorum: The presiding officer shall request that a person who fails to abide by these suggestions be orderly and silent. If a person persists in disturbing the meeting, the presiding officer shall order him or her to leave the meeting. If such person fails to remove him or herself, the presiding officer shall request that a Town of Burns Harbor police officer remove the individual from the meeting.

McHargue stated I would very much hope that none of that has to happen and that we can all have a group conversation and work through whatever differences that are going on here and come to a solution that hopefully everybody is happy with. I am going to open up the first Public Hearing which is in regards to the zoning district and this specific Public Hearing is not in regards to the rezoning of that parcel, but this zoning district itself. So, just so everyone understands the order of this, we will have a discussion in regards to what the ordinance looks like currently. After

we speak about it, then, I will let everyone know, and we will open up the public comments. First, we will have anyone that wants to speak in favor and then as soon as that is completed, you will hear everyone that wants to speak in opposition. Keep in mind that there are going to be two separate Public Hearings. So, if you want to speak to the other thing, that's fine. If you want to speak on both, we're here and that's okay. We have a packed room, so we are going to limit everyone to two minutes. Hopefully, after some of our discussion, we will have answered some of your questions. I can assure you members of this board have questions. The Plan Commission board received an updated review from Global Engineering regarding the zoning ordinance. The review will be on file at the Town of Burns Harbor Town Hall. Shem, can you elaborate a little bit on some of the thoughts and explain maybe some concerns that you brought to our attention? Khalil stated my name is Shem Khalil and I am the President of Global Engineering and Land Surveying. I have Jeannette Hicks with me and she is a Professional Engineer and Jeff Altman, who is our landscape architect. We all collaborated to come up with the comments based on the Town of Burns Harbor's request to review the proposed ordinance. I will let Jeff speak on some of the comments that are specific to the proposal ordinance. The proposal ordinance has some clerical issues and there are some suggestions based on that. We have submitted an ordinance from St. Joseph County, Indiana, that has a very similar ordinance and we kind of tried to mimic what they allow and don't allow. In addition, we reviewed the actual legal description as well for the entire land parcel that is proposed. Khalil stated let me summarize the comments. There are 10 comments and a lot of comments or at least corrections on that proposal ordinance. We are recommending some prohibition to the ordinance itself. The prohibited use within the SD8, which is the proposed special use district 8. It is a technology use special district, the following uses should be prohibited with SD8, one being the production and storage of warehousing of batteries or battery materials for burning power plants, nuclear power plants, renewable energy generation systems, cellular towers, or other wireless telecommunications. And access to the definition of the light industrial which is defined in the zoning code as it stands in Section 15-2-2. Those are the major problems that we have right now. We are trying to assume that is a light industrial, so we are trying to mimic the zoning for light industrial so all the development standards that we have existing for the Town of Burns Harbor. I think this is a very condensed way of the issues we are seeing. I'll be glad to answer any questions. McHargue stated the first thing that stands out to me is that this zoning district appears to have an allowable building height well-exceeding anything in the Town of Burns Harbor. Other buildings that stand greater than 60 feet in the Town of Burns Harbor stand that way after obtaining a variance. My problem is that after going through some of the other uses that are permitted within the zoning district would be that we would allow an office building as a permitted use as indicated. So, potentially in that zoning district, the way it's written, someone could build a 12-story office building without any variances or review. There would be no review by the Fire Department and I know that specific thing to me would be an issue. In any of the other districts, a variance would have to be obtained by the Board of Zoning Appeals and then it would be reviewed. I feel like this ordinance just kind of rubber stamps that. If the office building wasn't there, I wouldn't feel as bad about it. How is our 75-foot ladder truck supposed to potentially help someone in a 12-story office building? Attorney Leeth stated as far as the height of the office buildings, as a representative of the data center developer, we would suggest you take out office buildings from the uses. We are looking for that potential height. McCormick stated the setback is either 15 or 25 back from the property line. That's 25 feet from someone's house with a 120-foot-tall building. McHargue stated I guess my question is then, Shem, in situations like this where you describe this potential zoning similar to the light industrial, we are setting this next to specifically all the residents that live on Castle St. They have their backyards directly facing this. I'd be a little concerned too if I had a building potentially 25-50 feet off my back lawn. So, I guess is there a standard that may address what we have? Khalil stated there are two issues actually with the height restriction. One is the issue of the fire; would the fire department be able to fight the fire if there is one? The second issue is the setback itself or failure of the building. The setback that we have is 50-feet light and industrial is 60-feet. The Town of Burns Harbor does not

have a fire truck with a ladder that is higher than 75 feet. McCormick stated years ago there used to be a 300-foot buffer zone between an industrial business or commercial and residential use. I am not sure if that has changed, I cannot access the Town Code at this moment. When Worthington bought this property 34 years ago, it was zoned residential. McHargue stated I think we are getting off into the second Public Hearing and not this one. I think what you are about to say is perfect content for the next Public Hearing, which is the consideration of the rezoning of the property, but not necessarily the development of the zoning district. McCormick stated what if we approve the zoning district and then what I have to say is worthless? McHargue told McCormick he could finish his statement. McCormick stated in 2019 the Town of Burns Harbor updated the Comprehensive Plan and it was zoned residential just like when they bought the property. Now we want to put this district in here before we go to rezoning, it's backward. McHargue tried to calm the crowd and let them know this was their warning and after that, they would be removed. I am trying to operate this so that everybody has an opportunity to speak their peace, but right now you're interrupting that. Dunlap stated I would question the purpose of the special use being pre-existing uses and building types as opposed to use being used for purposes defined in section 12. Adcock stated is the whole purpose of the special district is to protect for tax-type benefits and could it just go under light industrial? McHargue asked if Khalil knew this. Khalil stated, no I do not. McHargue stated I think he is kind of asking if this is even necessary to create or would a modification to one of our current zoning districts be more appropriate. It's being described as light industrial, but we are creating this whole new thing specific to this data center on one section of the property. Khalil stated if you have a building that high or if you have a process of data on a process of some sort, and acts like a technology or a light industrial. It is very similar in a way, but maybe a specific technology. I see it both ways, it could be added to the light industrial with some language with the same standard. Attorney Patton stated that is correct and looking at the special use districts within the Town of Burns Harbor already. There are seven and the desired use for the data center did not fit into any of the other special use districts. So, we would have to either amend one of those other special use districts to allow for this or the proposal was to just create a brand-new special use district for your data center. So, that is the route we have to go. And just for clarification, the first Public Hearing is just to create the district within the Town of Burns Harbor, not a specific location. The second Public Hearing, which has not even started yet, will be for this specific site. I would invite Attorney Todd Leeth or representative for the developer to speak to these issues, and the data centers in general to educate the commission and public on what you can do with your operations. Attorney Leeth stated I apologize for wearing the mask, but it is CDC's recommendation. No one wants me to take this mask off more than me, so I do apologize. With regards to the ordinance, when we approached the Town of Burns Harbor with the proposal to locate a data center, we looked at the zoning ordinance and determined that there was nowhere in the ordinance where that was allowed. And, that didn't come as a surprise. Data centers are kind of a new thing and zoning ordinances haven't caught up. So, we immediately thought of a planned unit development, and your ordinance doesn't drive or allow for that. So, then we were faced with how do we create a district that allows a data center. It seems to me rather than try and put that in another district with the development standards that follow that district, that we just create our own special use district and create development standards that apply to that. It's also my opinion that if you have a zoning district with only one use, that's not a very good planning solution either. So, the proposed ordinance has a multitude of other uses that kind of fit in a technology district. There is a whole list of allowable uses under the coordinates. And of course, we added a data center, so that's how we got to where we are now. I worked with the Town of Burns Harbor's attorney to kind of draft this proposed ordinance, but the real challenge was creating something specific to data centers and the other uses that fit closely with them. But, if we try to use an industrial district, I don't think a data center is industrial and it's certainly not commercial. So, you try to create something unique and I think the circumstance requires it to be unique. Poparad stated when we were discussing the building height cutting down to 60 feet, you were talking like you didn't like the 60 feet. Attorney

Leeth stated we want the flexibility to go higher. 60 feet would kill the whole thing. McHargue stated, just to summarize, Gordon when you talked about a 300-foot setback, you would want that on any of this potential zone that borders residential property, correct? McCormick stated I would like a 300-foot setback; however, I am not going to say that. That is not going to change my mind. Attorney Leeth stated right now the setback in the SD8 is proposed at 50 feet. That is one of the Town of Burns Harbor's highest setbacks. But I also recognize that the 120 is significantly higher than your other heights. How about the setbacks be related to a height? So, in other words, 50 feet gets us 60 feet in height. But, if we got 100 feet, we can go up to 120 feet. Resident Phyllis Constantine- 252 Haglund Rd, stated sir, I'm sorry, but this man is talking, please just let me say something. I've been in this town since 1964 and I know what is going on in this town. I was on the town board when we had to fight to get what we wanted. We bought Worthington Steel. When they bought that property originally, we told them no, you are not going to build on it. So, they built across the street. You're telling us, according to the letter that was passed around to our homes, that this data center is going to be putting out noise. Attorney Patton stated since you were on the town board you know there is a process of procedures for Public Hearings, and though you don't want to follow that, can we at least have your name and address for the minutes? McHargue stated I am trying to get to public comment here real quickly, but I am trying to summarize and get there right now. In regards to the SD8, have you looked at the permitted uses? One thing right now that I don't love is the permitted use of light industrial. McCormick stated I don't care about the specifics of the building, there is no fire protection. McHargue stated if no one else has anything from this board, we're going to go to public comment for comments in favor.

Public Hearing

Provident Realty Advisors, Inc.- Rezoning

McHargue opened up the Public Hearing at 6:53 P.M regarding the zoning district.

McHargue asked for public comment in favor. There were no comments in favor.

McHargue asked for public comment in opposition.

Ed Orlando- 1149 Gustafson Ln.- Orlando stated I feel a lot better knowing that you guys are on our side. I appreciate the time, and I do disagree with some of you guys up there and I will give you some of my viewpoints. First off, the petition that Provident gave you unfortunately put you in a bad spot. The first thing to talk about is there will be no negative impacts which can negatively impact property values or other properties. The proposed use will in no measurable way alter the essential character of the locality and will provide for the early growth and development of this town. The proposed use will allow the subject parcel to be used in the best economical and practical way, without frustrating or infringing on the use or enjoyment of neighboring properties. I mean, if you guys can see some of these pictures that I can hand you later, I think if you have a 50-foot setback with 120-foot buildings, I think that's the definition of frustrating and infringing on the use and enjoyment of neighboring properties. I have been doing a lot of research and I'm sure you have been getting my emails, I appreciate your patience and I apologize for making you guys the enemy. I appreciate that you guys are on our side. As far as the setbacks, I've seen some towns now have up to 500-1,000 feet of setbacks because of the noise levels. Even 60-foot-tall buildings are going to be a huge nuisance. Some concerns are the light pollution, the odor, the environmental issues, and we didn't even get into the local jobs. Everybody wants to talk about the jobs, but how many are going to come from Burns Harbor? This thing is going to have high fences, tough security, and very little taxes that are going to filter back down to the Town of Burns Harbor. The decibel levels weren't even talked about in the petition and some of them set them at 45 decibels at night. I appreciate you guys and I apologize if you felt like we ramped up in the beginning, but I feel like everybody's going to be professional today and bring up some good points.

Carrie Davis- 1217 Stanley St. – I have a lot of concerns, obviously the amount of electricity and water being used. I wonder how this will affect our grid and our services and if those services will have to be upgraded, as we customers will have to pay for that. I have been in the Duneland community since 1984 and something important to me is the little community feel. This area was a residential area when I purchased my home. You have to look at the bigger picture, this is an industrial town, and we have a very small number of residential areas that we call our home and our community. By building this stuff, you are neglecting the residents and any of the community that we have left. If this is built, we are going to turn into nothing, because we are not important.

Bill Herring- 1232 Castle St.- I understand what you as a board are going through, but I find this very backward to have proposals for how to design a zone being foisted on you, and then you trying to figure out how to manage it, but already given a half a dozen examples of why this is the least of which a 75-foot ladder truck to handle a 120-foot building. I don't care what we make out of it, but most of this stuff is going to be utilitarian-looking. It's not an office building or a business campus like a corporate headquarters. They are also worried about security, so it's going to be very plain Jane. They don't want the public touring through and they are going to have fences. They are going to have security lighting every night and every day of the year, on 120-foot-tall buildings. The trees are not going to block that for the Castle St. residents. So right away, 120-foot-tall buildings I think it should be off the table. If you want to make an SD8, go for it, but make your SD8 practical for where it is and how it's going to operate. I think anything over 60 feet is already pushing the limit. We have a beautiful park here and it is going to ruin it because right across the road you have 120-foot buildings with a 50-foot setback. That's just outlandish. That is not something that belongs anywhere near the residential area.

Neil Stout- 209 TrailCreek Dr. – I have lived in the Town of Burns Harbor for 7 days. I think this special use is unnecessary. There are plenty of other practical applications for that residential, zoned residential, that could be more beneficial. They threw these people out of Chesterton. They are preying on smaller communities. Wait until you see the list of their variance requests that are going to go to the Board of Zoning Appeals after this ordinance. The people that have said there is not going to be enough tax return to make it worthwhile, that the noise and light pollution and all this kind of stuff, you're making a mistake. The Town of Burns Harbor is being played. This is not green, and it is not going to help.

Annette Hansen- 218 W. Dunes Hwy. – I have lived in this community for about 30 years. I am a conservationist, scientist, and artist at heart. When I think about this whole thing happening, I think about all the noise that is going to be a drag. Also, the CO2 emissions and possible refrigerant in the water, are all of the things that we have seen in videos about these data centers. I am also concerned about the migrating of birds since we are so close to the National Park. We are already facing an apocalypse of insects, and this is just going to drive it down farther and harder. I just want you guys to remember I am the Lorax over here, I want you to remember it's not just humans that are inconvenienced, but all of the creatures as well.

Jerry Mansell- 1245 Coan St.- In my career as a civil engineer, I developed a great respect for members of school boards, city councils, zoning commissions, and other civic-minded individuals. I also understand the ongoing need for the construction of infrastructure to support our current lifestyles. This Plan Commission has a very important decision before them, and only one chance to get it right. The petition before the Plan Commission has several disingenuous statements, but let's talk about paragraph 7. e. "The proposed use will in no way alter the essential character of the locality." Yes, there is a railroad right a-way on the north side of the parcel, but on the other side of the tracks are the Indiana Dunes National Park and the Little Calumet River. And while Worthington Steel is on the east side, so is the beautiful Mnoke Prairie section of the National

Park. On the south and west sides are quiet residential neighborhoods like mine, as well as Lakeland Park and the Marquette Greenway bike path. Of course, a large data center will alter the essential character of this area. A previous Plan Commission designated the subject area for future residential development, determining that the best use for this locality is not industrial facilities. There are many other areas in northwest Indiana already zoned for uses such as the proposed data center. Burns Harbor indeed became a town because of the steel mill, but further industrialization is not the only option before this commission and does not have to be your legacy to your community.

Bob Hipps- 1141 Stinson Dr. – The question I have is dealing with taxes. I believe that the amount that Burns Harbor could collect from taxes is already capped at 4%, so during the July 8th meeting, it was mentioned by the attorney for Provident that we would receive enough revenue to build one elementary school a year. I don't see how that is possible and I just wanted to bring it up on the table to say we aren't getting anything. There is no financial incentive, and if there is, I would love to hear about it.

Kim Ilic- 1220 Stanley St. – I am very familiar with industrial and I don't understand why they are so focused on this area. Why not Gary who has all of the abandoned buildings? I love Lakeland Park and walk my dog there every day. I am worried about that and the environmental impact that it has. Our water pressure is terrible now, what is going to happen with that? And what about the power that it is going to generate? Will they have enough power? I am worried about my neighbors and my friends and would like to keep the community the way that it is.

Chuck Thomas- 357 Marilyn Rd. – I say there should be no rezoning until a comprehensive building plan is in place and overlooked by consultants of the Town of Burns Harbor. This should be paid by Provident Realty Advisors. If they do not want to pay for it you should tell them to go elsewhere and do business with someone else. Why are the first responders being told that they do not want them involved in their fire protection? Who is going to maintain a test or fire system? Electrical fires are a major issue and they give up a bunch of smoke and are hard to put out. We still haven't seen a comprehensive plan of what they are trying to build.

Ron Spear- 223 TrailCreek Dr. – I want to talk about project management. Generally, when you have something of this major, they do a feasibility study. Many times, these big companies want to build in residential communities and they reach out to the community. I don't think they have done that because they want it to be accepted. They don't care about us. They want us to do what they want, which is why they are looking for this rezone. That way it would open up floodgates for other types of industries. There is also a thing called a benefits management plan that generally the project manager holds which is a list of pros and cons. I bet if you went through that you would see that there are probably no pros. I am for infrastructure and I am for having businesses with jobs and helping the community. But, something like this nets us almost zero. I don't think we should even consider rezoning anything for something like that unless there is something in it for us. What is the con of us saying no? Nothing. We go on just as normal like we do every day.

Nick Loving- 1161 Skylark Dr. - Mr. President my comments are related to the rezoning, not to the creation of SD8. Should I speak now or do you want to move that to the next one? McHargue stated let's go ahead and move that to the next one.

Jeff Srencik- 2701 Willow Creek – I have been a resident of Burns Harbor for 20 years and I have firsthand knowledge of the electrical industry and the Amazon that they built in the Ameriplex in Portage. There are only three people that work in that building. So, I would like to go on record and have my name noted that I am against the data center for the Town of Burns Harbor and for the people. That building at the Ameriplex has over 500 security cameras. The fence can be hit

by a semi going 70 mph and it will not penetrate. There are sensors in the asphalt over there, and I have firsthand knowledge of this because we were involved in a lot of this.

Alicia Doolin- 1258 Coan St. – I think in some ways we need to defer because the initial purpose of today's meeting seems to be about a very basic rezoning component. And the difficulty that I have is that it's rezoning based on a building that seems like there is a lot of conjecture about. We don't know exactly how big it is going to be or the power usage it is going to use. The Worthington Steel area has been farmed and for sale for 20 years. So, I don't see it being turned into a residential area anytime soon. But, as to what goes on it, I think that seems to be content for next time.

McHargue stated there are two Public Hearings, so if you signed up and wanted to speak in both things, you're allowed.

Allen Hammond- 1470 Mximillan Dr. – My wife and I were against the data center in Chesterton, which if it had been built, would have affected all of you. If it is approved here in Burns Harbor, it will still affect us. Gordon, I applaud you, you are right. If it is zoned residential, leave it residential. I worked with the Town of Burns Harbor back in 2012 when you did your ADA transition plan. You guys did a lot of great work back with me in 2012, so I trust you will do the same for the people of Chesterton and the people of Burns Harbor.

George Spoa- 201 Fairchild Dr. – I will say one thing, move this over to the Ameriplex in Portage and leave us alone.

Phyllis Constantine- 252 Haglund Rd. – We have worked very hard to make this town family-orientated. When the Village came in, we were worried. When the car dealerships came in, we were worried. We already have the steel mill and now you're trying to let this other company slide in here like a snake and take our property. I have worked very hard in this town in different situations and supporting everyone when it's something for this town. I want to protect this town. All I am asking is to send them to Portage.

Doreen Olguin- Flores- 1143 Weaver Way- I am concerned about the data center because it consumes 3.5 million gallons of water a day. That is equivalent to a small city's overall annual consumption. We already have Cleveland Cliffs using the water they need. The risks are power outages for the data centers, fires, extreme weather, and cyber-attacks. There are a lot of risks and being that close to residential areas is not good.

Dave Teeter- 1157 Kinner Dr. – One thing I learned in life is you have to come in with your facts and not your feelings. And a lot of what I am hearing is feelings. Jeremy, you brought up a great point about the fire truck only being able to reach 75 feet. How close do you need to be to a building to get to 75 feet above exactly? You are going to risk the cost of that machine to possibly be burned up to get close enough to do whatever it is you have to do at 60 feet and that only leaves you 15 feet away from the building to reach out. That is already a major safety concern. Someone also just brought up the fireworks stores in this area. What happens if the data center goes up in flames and goes to one of those stores? This is a waste of our time; I say not.

Keith Saulsgiver- 1243 Castle St.- I have lived here for 38 years. I remember when they wanted to put a nuclear plant in our back yard and we spoke out. The people and town listened and it didn't happen. My backyard has trees and on the other side of those trees is where they plan on putting the data center. We need to leave this alone and these people need to go home.

Jim Constantine- 252 Haglund Rd. – My biggest concern is that this has been in the works for a little while. Not one member of any board in this town has asked if anyone on Haglund Road wants to change the zoning. No one on Haglund Road wants it rezoned. We want to use it as residential.

Sharon Hansen- 288 Riverside Dr. – I have been in IT for over 30 years and I have been inside these data centers. Most of them have what is called LLS, which means a light-out facility. You are being played big time. Data centers are not something you want to put here in Burns Harbor, put them out there by I65. The lights, security, and fences are a big issue. The fact that the bats and birds are going to run into this thing because they do keep those lights on 24/7 and that security is 24/7 and as far as power is concerned, the data centers usually set up a contract. They will set up with Nipsco which says they have the priority. They will have priority for water. Once they start up, they tend to disperse a lot of humidity as well. This humidity will then create mold. The lights are going to start killing the trees because the trees cannot handle the 24/7 light-emitting capability. You are being played by Texas.

Shawn McCarthy- 1231 Stanley St. – I have been out here for about two years because this is a nice town and area. If we make any kind of industrial property, it will take away from the town and what everyone likes about this area. This data center will cause a lot of issues with our pets. They are going to be anxious and stressed.

Samantha McCarthy- 1231 Stanley St. – There are two things I want to bring up: one, my mom has managed to maintain a position with Lakeland Park as a summer guard for two years now. I feel like the potential for those jobs if we introduce the data center will just disappear because no one will want to go to the park because they have to deal with the eyesore. The second is they are pressuring you. Why haven't they gone to an established industrial area? Is it possible what they are trying to do won't lie with standards within an industrial area? They are trying to pressure you to create something unique for them. They are trying to bring it on you because this is a small town and it's a small council. We are all taking steps to make sure we are informed about what goes on in these data centers. We should have at least two years of prep time.

Joe Miller- 1238 Castle St. – I have been here for about seven years. I have a lovely home with an acre of ground and like many people in this room, it's my biggest investment and my life savings. Indiana is a big state with a lot of land. Why do they want to put these 300 feet from my property? I hope the Planning Commission takes that into account.

Brandon Thompson- 1159 Skylark Dr. – I haven't heard anything in here that has sold me or anybody else on this whole deal. You've got a guy up here with a mask on talking about CDC recommendations, it has nothing to do with it. There is no sale here.

Gary Brown -President of the Isaac Walton League Porter County- I came here to be educated. Let me tell you, this Town Council listens. This is not Chesterton, holy cow have I learned the difference tonight. I know it was a struggle. You are doing it the right way. You do not have enough information. Our chapter fought the no-banquet center at the Dunes State Park. It continues. The public doesn't know, but they are still trying to put brew fests and boat races in the parking lot at the State Park. I told Chesterton the main reason they picked our town was because of four things: water, water, water, and water. I can tell you right now I am on calls with the EPA District 5 and the branch manager for wetlands. I am to call them tomorrow to let them know what happens at this meeting. I am also in contact with the Dunes National Park. They want to know what is going on in this process. They are in the target zone. The people within 1,000 feet, good luck. Get your life insurance ready. They have more data banks in Loudoun County, Virginia than in any other place in the world. It is too late to get regulations for it because the money is flowing for lobbyists,

and they forgot to put clauses in there about penalties. My last point is the way this guy described this thing they are building a prison to keep people out of their property. There are so many studies that haven't been finished yet on the toxicity of low-level frequencies, not just the noise and how it affects wildlife.

Deanne Manojlovic- 1904 Catkin Circle- The devil is in the detail. When they tried to get into the Brassie, they had a lot more information for one. What is the goal and the plan? What happens if they don't meet that goal, the goal of the decibels that it lets out? Would they rather just pay a fine because they are going to be making millions of dollars? Anytime you find it doesn't matter to them. I don't understand why we are the ones they are coming for. It seems like something that would be done by the board by the experts in the field and by the lawyers that are part of the third party. It all just seems backward.

Elaine Stout- 209 TrailCreek Dr. – I have heard a lot of people talk about what is going to happen if the data center goes up in flames, but I've not heard anyone concerned about the people whose backyards are going to apply. We don't have enough equipment for the data center, do we have enough equipment for the citizens? I think not.

Cheryl Arney- 258 Haglund Rd. – I would like to know who is going to pay for all of the roads and everything that is going to go in there. Because of the subdivisions, we have more traffic. You are going to dump all of the traffic onto Highway 20 and S.R. 149 which is already bad.

Sarah Dinkins- 273 Lake Park Rd. – We use Haglund Rd. for everything. (audio was ineligible) There are a lot of concerns. Building the data center would change the safety that we have going to Lakeland Park and kids riding their bikes.

Carrie Davis- 1217 Stanley St. – I want the board to keep something in mind, you have to ask why they are coming to a small community like Burns Harbor. These are multi-million-dollar companies and they are getting small towns because they don't have a lot of experience in this. What is going to happen is they are going to come in and then all of a sudden, their big lawyers are going to get all of these loopholes in and all the stuff they didn't catch that we didn't think would happen. Do we even know anything about the company that wants to build this facility? If they are experienced at it? You have to think about that. Just keep those in mind.

John Svejda- 1224 Stanley St. – Who came in first with this idea? Why did you think it might be a good idea for our town? I am just curious. I would like the board members to stand up and say why you think this is a good idea.

Attorney Patton stated the board does not have a position when someone comes to the community and files a petition. We have to do a process. They file a petition; we have a hearing. The board is taking information from the petitioner and hearing the public comments for and against. So, this Planning Commission with the six members present and the seventh member who is online, is here to hear your thoughts.

McHargue stated the only other rebuttal that I would say to that is there were several allegations that these boards had already greenlit and passed this and we weren't interested in hearing or listening to anyone. But if we hadn't had this Public Hearing let's just say we just waited and denied it. We never offered anyone the opportunity for the input and that would be making decisions behind closed doors. And that is not what we are doing here. That is why there is a Public Hearing. I'm glad you're all here and speaking because if no one showed up, it's seriously left to us. And I don't know what the outcome would be. But clearly, there is support in a certain direction here tonight. And if you think you are not heard, you are wrong.

(audio was unintelligible)

McHargue stated this was presented to us. Ultimately this ordinance if it were to be adopted, is it would be our town's ordinance. However, keep in mind that anything in there is under our full control to change anything from it. If we said we would like this and we would like to have a maximum building height of 2 feet. We could adopt it and say that is too big.

Attorney Patton stated to clarify the process: the Plan Commission makes a recommendation to the Town Council and then the Town Council has the ultimate authority to enact an ordinance to make changes to the town code for zoning classifications. So, this board just makes the recommendation.

McHargue closed the Public Hearing at 7:52 P.M.

McHargue stated at this point we have a lot of questions that were proposed in regards to the data center. Is there anything Provident would like to offer in rebuttal or answer any of those questions?

Attorney Leeth stated the process is unfortunate because we can't ask to be rezoned to something that doesn't exist. So, creating the special use district is logically first, and then our petition asking to go into that zone makes sense to come next. What I suggest is maybe you defer action on the petition to create the zoning district and then allow us to have the hearing and our presentation, and you'll see some of the details of the data center. McCormick stated, once again you are putting your data center ahead of what we are discussing right now. We are talking about the rezoning, not your data center. Attorney Leeth stated I think there was a lot of discussion during the hearing, that suggested that the data center didn't have any detail. And I'm suggesting, if we go forward, that you the members of the Plan Commission will have some of that detail. McHargue stated if everyone is looking at the process that happened in Chesterton compared to the process here, I do want to caution you that a planned unit development, which is what was proposed in Chesterton, includes a site plan. This process is potentially what they are seeking if for the Town of Burns Harbor to adopt a zone that would fit a data center, and then to rezone that property. And then if that all happened, there is a preliminary site plan review and a formal site plan review. There are a lot of steps in that process, and that is why you don't have a plan sitting in front of you that says what the data center is going to look like and what it is exactly going to be. And as far as why we are here today, they submitted their application. They are entitled to have a Public Hearing. With everything that we have regarding the zoning ordinance, there is potentially someone who can make a motion to give a favorable recommendation or not give a favorable recommendation. And then the third option would be to continue the Public Hearing because there was a lot of stuff in the ordinance such as setbacks, building heights, and permitted uses. I am not comfortable adopting this ordinance as it stands. I think we are all clear on that, but if anyone wants to make a motion. McCormick made a motion to continue the Public Hearing to the September 9, 2024 meeting. Dunlap seconded the motion. Dunlap- Aye, Watkins- Aye, McCormick- Aye, Adcock- Aye, Poparad- Aye, Bozak- Aye, McHargue- Aye. Motion passed.

McHargue asked if anyone had any questions. A resident in the audience asked if the board could have just denied it at this point. McHargue stated that if someone would have made that motion, then yes. McHargue stated my understanding is, that if a non-favorable recommendation would have been given, then the petitioner could then ask the Town Council to still proceed per our Town Code. If this zoning district gets adopted regardless, that doesn't mean a property has to be rezoned to it. So, either way we are doing the work, but maybe we consider it at a specific height. Maybe we consider it but with certain setbacks, we have all of your opinions now. I'm not

saying it's happening; I'm saying that there will be a consideration for Public Hearing at next month's meeting for this part of it. I am getting ready to have the second Public Hearing, which I am about to open. A resident asked what that Public Hearing is about. McHargue stated that a favorable recommendation could not result from this, because there is no zone that they are promoting to change to it right now, because the first thing didn't get a favorable recommendation. So, regardless of what happens tonight, when we leave here, the property will not be rezoned to SD8. This first Public Hearing will be continued to the September 9, 2024 meeting. Bozak stated just to clarify the public is invited to all town meetings. We would love to see you there. Attorney Patton stated to look on local media, look online, and look at the Town of Burns Harbor website for the location, so we can get a larger location. A resident asked if there was a meeting on the 14th of August. McHargue replied, yes that is the Town Council meeting. A resident asked if it would have anything to do with the data center. McHargue stated with the zoning district not being approved or a favorable recommendation, the Town Council won't have a decision that they can make regarding this matter. Councilman Loving stated we will not take this under consideration at the August 14, 2024 council meeting. McHargue stated on that note, that I do have another Public Hearing to open. That Public Hearing will have the same rules as we spoke before.

McHargue opened the Public Hearing at 8:01 P.M.

Attorney Leeth stated given the Planning Commission's recommendations on the zoning district, I think that it is the best course of action to defer the hearing on our rezoning until there is an action on the zoning district. We respectfully request that our Public Hearing be continued until September 9, 2024.

McHargue stated that I had a lot of outpouring of people asking me to or demanding that we delay this Public Hearing from the giddy-up. And my concern with that was any delay of this, would slow down getting information to the public. So, with that, do you have any more information that we can disseminate to the public regarding this so that they can get the information you want to provide? This way they can be a little more prepared with the specifics than what you guys are proposing. I am not saying that you have to, but if you can get material that we can disseminate over the next month that may be helpful for these people to get either an understanding, answer questions, or be prepared. Attorney Leeth stated here is one of the concerns, we do have a concept plan. We were at the preliminary hearing on July 8, 2024, and we were asked to develop a concept plan. The concept plans are just that. It's an illustration, but it is not engineered, and we don't have any hard details as to how many buildings we are going to have. The concept plan anticipates the developmental standards in your proposed SD8, so if you change those developmental standards, our concept plan has to change. McCormick stated it's not our proposal, it's your proposal. McCormick asked who drew that SD8 proposal. Attorney Leeth said Attorney Patton and I. McCormick asked Attorney Patton, are you working for us or him? Attorney Patton stated I take offense to that Gordon, I was met with and directed by other town officials. I think Roseann who is on the Planning Commission and Town Council is trying to speak. Bozak asked can we please just take a minute to listen to each other and not argue with each other. The things that I have read and seen on Facebook are terrible, and I will say I have been a part of the Town of Burns Harbor board for 10-plus years now, and we had open seats this past year on several boards where we were begging people to sit on boards. People need to come forward and help the town, not just when they oppose things. This is why arguments are constantly getting heated because no one cares unless it's something that makes them mad. We had a town picnic last year and we had three people in attendance. The Town of Burns Harbor spent money to come together as a community, which all of you are talking about right now. And no one comes together when it's for the good. People only want to come to argue, let's be right to each other. There is a process for things. Part of this process is that I have the floor. That is my right as a citizen. (audio unintelligible). Can we please just settle down? Attorney Patton stated I just want

to reiterate Gordon, you and I met with people from Provident, so don't act like you weren't involved in prior discussions. We were both there and we had conversations, so don't act like that. McHargue stated we know that this can't get out tonight. Provident is requesting to continue the Public Hearing. It is going to be subject to what happens with the zoning ordinance, so at that point, I would entertain a motion to continue this hearing. Poparad made a motion to continue the public hearing regarding the rezoning of the parcel. Dunlap seconded the motion. Bozak- Aye, Dunlap- Aye, Watkins- Aye, McCormick- Aye, Adcock- Aye, Poparad- Aye, McHargue- Aye.
Motion passed.

McHargue closed the Public Hearing at 8:07 P.M.

Attorney Leeth stated I appreciate your time and consideration. I know this is a tough matter for everyone and we look forward to returning in September.

McCormick stated I have something else to say, I was out of town for the meeting in July. I had a camping trip with my wife, daughter, and her two kids that I wasn't going to miss. The meeting I had wasn't secret, it was myself, Jeremy, our attorney, and three people on the telephone on a video call. I gave my opinion pretty to the point. I had no secret meetings, none. We have seven of us up here with seven different opinions and we all stress things differently. I don't hold back, I should but I don't. I tried to run for Town Council. I waited until the last day and that was my mistake.

Resident Ed Orlando stated I appreciate your time and we have some sharp individuals. I think some of the confusion in the beginning was the July 8, 2024 meeting that you had wasn't very well advertised. You guys could have done a better job of that. The other thing was you knew how big this event was going to be, and we were just hoping for a bigger venue to have it at. I think if you guys need to continue to protect yourselves and get aligned so that we could just give a negative recommendation to this board, there is no way the board is going to pass this. we need to move; I am worried about the timeline. The quicker you guys squash this, the better everyone is going to feel. If it just keeps continuing, you are letting Provident come up with more concepts and no real information.

A resident stated that the purchase of the land from what I understand is from Worthington Steel to Provident, contingent on the re-zone. So, once we re-zone, what's going to stop them from suing the Town of Burns Harbor or the Plan Commission board if we try to get in the way of building anything they want, could we open up ourselves to litigation? My point is, if you let the foot in the door with the re-zone, you give up a lot of your protection. The re-zone is one of the only things that is protecting us. They are not even willing to buy the land. That's how unconfident they are that this would go through, or else they already would have purchased it. That is something to think about.

New Business

Review: Bonds, Maintenance Guarantees, Letters of Credit

None

Good of the Order and Any Other Business

None

Announcements

None

Adjournment

Poparad made a motion to adjourn at 8:15 p.m. Dunlap seconded the motion. Poparad- Aye, Adcock- Aye, Bozak- Aye, Dunlap- Aye, Watkins- Aye, McCormick- Aye, McHargue- Aye. Motion passed.

Approved: September 9, 2024

Jeremy McHargue, President

Jill Sherrill, Secretary